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In re Application of  
SCHAFFER, et al.  
Application No.: 10/567,187  
PCT No.: PCT/US04/25047  
Int. Filing Date: 30 July 2004  
Priority Date: 04 August 2003  
Attorney Docket No.: 840070.406USPC  
For: NON-SLIP MEASURING TOOL AND  
METHOD OF MAKING

DECISION ON PETITION

UNDER 37 CFR 1.42

This decision is in response to applicant's papers filed 16 November 2006 In the United States Patent and Trademark Office (USPTO). The response is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

**BACKGROUND**

On 30 July 2004, applicant filed international application PCT/US04/25047, which claimed a priority date of 04 August 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 04 February 2006.

On 03 February 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, a preliminary amendment, an application data sheet and a substitute specification.

On 16 August 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 16 November 2006, applicant filed the present response which included a declaration which was executed by Margaret D. Schafer in her own capacity as an inventor, as well as, as legal representative to the estate of deceased joint inventor Randal D. Schafer. The response was accompanied by a petition for a one-month extension of time and payment of the appropriate extension of time fee. The response with extension of time is considered timely filed.

### **DISCUSSION**

Pursuant to 37 CFR 1.42, first sentence:

“In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.”

An examination of the filed declaration finds that the document lists the citizenship for all the inventors. Applicant has previously filed an application data sheet providing the post office and residence information. In addition, applicant has included a signed supplemental sheet to the declaration which identifies Margaret D. Schafer as the legal representative to the estate of Randal D. Schafer and lists her post office, residence and citizenship information. As such, the declaration is in compliance with 37 CFR 1.497(a)-(b) and it is proper to grant applicant's request at this time.

### **CONCLUSION**

Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

This application has an international application filing date of 30 July 2004 and will be given a date of **16 November 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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